

REMARKS

Claims 1-3 are pending in the application. Reconsideration and withdrawal of the final Office Action are respectfully requested.

In the final Office Action, claims 1-3 were rejected under 35 U.S.C. §103 as being unpatentable over TOKUNAGA et al. (US 5,077,845) in view of PARKER (US 4,011,610). Applicant respectfully traverses this rejection as discussed briefly with the Examiner in the telephone interview on May 2, 2005. The following remarks record the substance of the interview.

As pointed out in Applicant's prior Reply dated December 16, 2004, this application is a continuation-in-part application of Applicant's U.S. Patent 6,725,485, in which Applicant added the features with respect to the design of the control system for the mattress system. Claim 1 of the present application, therefore, includes all of the limitations of issued claims 1 and 2 of the parent patent U.S. 6,725,485, and additionally includes the features of the control system, including a fluidic pump, a fluid release mechanism, a fluid pressure reservoir and a fluid pressure switch. Hence, claim 1 includes additional features over and above the features recited in the issued claims of the parent patent, which claims were issued over the initial rejection based on TOKUNAGA in view of PARKER.

As discussed during the telephone interview, Applicants' independent claim 1 recites a mattress system that includes a mattress having a cavity arranged therein. An expandable cushion is arranged in the cavity. A mattress protector covers at least the top surface of the mattress. The mattress protector

includes a first portion that extends into the cavity and a second portion that extends over the expandable cushion arranged in the cavity. A control system is provided to control the expansion and contraction of the cushion, and includes a fluidic pump, a fluid release mechanism, a fluid pressure reservoir and a fluid pressure switch.

The Office Action acknowledges that TOKUNAGA does not disclose a portion of a mattress protector that extends into the cavity arranged in the bed. As such, the Office Action cites to PARKER for allegedly teaching such a mattress protector portion. Applicant respectfully submits that one skilled in the art would not combine TOKUNAGA and PARKER in the manner fashioned in the Office Action.

TOKUNAGA is directed toward a bed having a built-in toilet. A mattress 4 is provided with a rectangular shaped through-hole 5. The cover sheet 29 is provided to cover only the opening (when the toilet is not used) or the anal and urinary portions of the patient 9 (see Figs. 10a-10c; col. 4, lines 38-43). Accordingly, as an initial matter, TOKUNAGA does not disclose a mattress protector covering at least the top surface of the mattress. At best, TOKUNAGA discloses a cover sheet 29 that extends over the cavity.

More importantly, however, one of skill in the art would not combine PARKER with TOKUNAGA in the manner fashioned in the Office Action. Indeed, while PARKER discloses a sheet 38 having a cuffed portion 40 that extends into a cavity formed in the mattress, the use of such a portion 40 in TOKUNAGA's toilet system would result in the patient essentially defecating on

the portion of the sheet that extends into the toilet. This, of course, would require the wasteful changing of the cover sheet with every usage of TOKUNAGA's built-in toilet. Accordingly, TOKUNAGA's built-in toilet – which uses easily cleanable rubber support pads 7a-7d (see column 6, lines 3-6) – effectively leads those of skill in the art away from using a mattress protector that would extend into the toilet. As such, Applicant respectfully submits the combination of TOKUNAGA in view of PARKER is improper. There is no teaching, suggestion or even a hint given as to why one skilled in the art would make such a combination. Indeed, the reason stated in the Office Action, i.e., "in order to fully cover [the] height of the aperture of TOKUNAGA" is without support as shown above. The greater the height covered then the greater the likelihood that the mattress protector would be soiled after each usage. Thus, one skilled in the art would not seek to make such a combination.

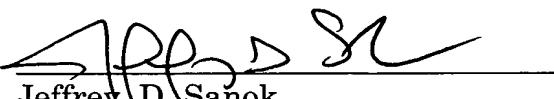
In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the final rejection. An early notice to that effect is respectfully requested.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #010628.50474C3).

Respectfully submitted,

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